

Remarks

By this amendment, claim 11 is amended. Support for this amendment can be found throughout the specification, including the original claims; page 16, line 16; page 17, line 3; and Example 3 (pages 19 and 20).

After entry of this amendment, claims 11-13 are pending in this application. No new matter is added by this amendment.

Rejections under 35 U.S.C. § 102(b)

Claims 11 and 13 are rejected under 35 U.S.C. §102(b) as allegedly anticipated by Shah *et al.* (*Plant J.* 25(5): 563-574, 2001). Applicants traverse these rejections for at least the following reasons.

Amended claim 11 is directed to a method of generating a plant with increased pathogen resistance by “identifying a plant that has a PPR1 gene allele that encodes a PPR1 polypeptide having a sequence at least 95% identical to SEQ ID NO:3.” Nowhere do Shah *et al.* disclose a PPR1 having a sequence at least 95% identical to SEQ ID NO:3. Further, Shah *et al.* do not teach, suggest or disclose the use of such peptide to increase plant pathogen resistance to *Peronospora parasitica* as recited by independent claim 11.

Anticipation requires the disclosure in a single prior art reference of each element of the claim under consideration. *W.L. Gore & Assocs. v. Garlock*, 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983), *cert. denied*, 469 U.S. 851 (1984).

Anticipation has not been established because the cited reference does not disclose each element of the currently amended claim 11. Therefore, as the cited reference does not anticipate claim 11, or any claims that depend therefrom (claim 13), Applicants respectfully request that the rejection under 35 U.S.C. §102(b) be withdrawn.

Rejections under 35 U.S.C. § 103(a)

Claims 11-13 are rejected under 35 U.S.C. §103(a) as allegedly obvious over Shah *et al.* in view of Albar *et al.* (*Theor. Appl. Genet.* 97:1145-1154, 1998). Applicants traverse these rejections for at least the following reasons.

Albar *et al.* is cited for allegedly teaching candidate gene/QTL methodology. Even if this were admitted to be true, this secondary reference cannot and does not make up for the deficiencies in Shah *et al.* discussed above. Nowhere does the Albar reference suggest or disclose a method of generating a plant with increased pathogen resistance by “identifying a plant that has an allele in its PPR1 gene that encodes a PPR1 polypeptide having a sequence at least 95% identical to SEQ ID NO:3” as currently required by all pending claims. Because the cited references fail to teach or suggest (alone or in combination) all of the elements of the claims, they are not sufficient basis to support a rejection of the claims under 35 U.S.C. §103(a). Applicants respectfully request that this rejection be withdrawn.

In view of the amendments and arguments, Applicants request reconsideration and withdrawal of the rejections based on the cited art reference.

Conclusion

Based on the foregoing amendments and arguments, the claims are in condition for allowance and notification to this effect is requested. If for any reason the Examiner believes that a telephone conference would expedite allowance of the claims, please telephone the undersigned at the number listed below.

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